

CCOAMINI

SUPREME COURT - STATE OF NEW YORK  
NEW YORK COUNTY CLERK  
CIVIL INDEX MINUTE BOOK INQUIRY

DATE: 11/28/2007  
TIME: 10:41:03

INDEX NO: 402779 2007  
PURCHASE: 05022007

PLAINTIFF NAME: COVINGTON JOHN  
ATTORNEY: UNKNOWN

DEFENDANT NAME: SULTANA JOHN C  
ATTORNEY: UNKNOWN

SEQ DATE  
0001 05022007

MINUTES  
VERIFIED PETITION  
POOR PERSON'S ORDER

0001 10012007

ORDER IAS PART 17 SEQ 001 MOTION DENIED

PAGE - 1

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

JOHN COVINGTON

DIN # 98A7353

Petitioner,

For a Judgment pursuant to Article 78 of the Civil  
Practice Law and Rules

Verified Petition

RJI No.

07402779

Index No.

-against-  
SERGEANT JOHN C. SULTANA, SERGEANT JAMES  
RUSSO, INVESTIGATOR HIPPOLYTE

Respondent(s).

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petition of JOHN COVINGTON #98A7353 respectfully alleges that:

- 1) This is a special proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules (CPLR).
- 2) The above named petitioner is an inmate in the custody and care of the New York State Department of Correctional Services and presently incarcerated at: AUBURN
- 3) Upon information and belief, the respondent is SGT. JOHN C. SULTANA, ET.AL., And has the authority to review decisions of his/her subordinates.
- 4) The petitioner challenges THE RESPONDENTS FOR FAILING TO PROVIDE ME WITH THE INFORMATION, THAT I HAVE REQUESTED PURSUANT TO FOIL.
- 5) The facts supporting Petitioner's claim are as follows: SEE ATTACHED SHEET P-1a.

ON AUGUST 29, 2006 I SENT A FOIL REQUEST DATED AUGUST 27, 2006 TO ONE POLICE PLAZA TO OBTAIN THE ACTUAL MEMO BOOKS AND NOTES OF TWO CRIMES WHICH ALLEGEDLY TOOK PLACE ON JANUARY 17, AND JANUARY 27, 1998 (SEE ATTACHED EXHIBIT A).

SUBSEQUENTLY ON NOVEMBER 1, 2006 I WAS NOTIFIED BY SERGEANT JAMES RUSSO OF ONE POLICE PLAZA, THAT MY FOIL REQUEST WAS RECEIVED, AND THAT A DETERMINATION TO MY REQUEST WOULD BE REACHED BY JANUARY 20, 2007 BY INVESTIGATOR HIPPOLYTE (SEE ATTACHED EXHIBIT B).

THUS PURSUANT TO THE ABOVE COMMUNICATION, I SENT A FOLLOW-UP LETTER ONCE TO ONE POLICE PLAZA, AND TWICE TO INVESTIGATOR HIPPOLYTE. NOTIFYING HIM, THAT I INTEND TO FILE AN ART. 78 PETITION IN THE EVENT THAT MY FOIL REQUEST WAS NOT RESPONDED TO. I ALSO PROVIDED INVESTIGATOR HIPPOLYTE ADDITIONAL INFORMATION TO HELP TOWARDS LOCATING THE INFORMATION THAT I REQUESTED (SEE ATTACHED EXHIBIT C).

2. THAT THE RESPONDENT FAILURE TO RESPOND TO MY REQUEST IN A SUFFICIENT PERIOD OF TIME IS DEEMED A CONSTRUCTIVE DENIAL OF MY REQUEST. THUS BEINGS THAT IT HAS BEEN OVER 120 DAYS SINCE I MADE MY REQUEST, AND THE RESPONDENTS HAVE NOT RESPONDED. MY ADMINISTRATIVE APPEAL REMEDIES ARE DEEMED EXHAUSTED, SEE MATTER OF KEVIN KENNEDY V. NEW YORK CITY POLICE DEPARTMENT, SUPREME COURT, NEW YORK COUNTY, JUSTICE DEGRASSE - QDS: 22266470 (NY LAW JOURNAL, NOVEMBER 2, 2000, PAGE 26).

3. THAT PURSUANT TO GOULD V. NEW YORK CITY POLICE DEPARTMENT, 89 N.Y.2d 267, 653 N.Y.S.2d 54 (1996) PETITIONER IS ENTITLED TO THE RECORDS SO SOUGHT.

P-1a

6) Petitioner exhausted his administrative remedies by: NOTIFYING ONE POLICE PLAZA ON OCTOBER 5, 2006 TO WHOM I MAY APPEAL TO REGARDING THE DENIAL OF MY REQUEST (SEE ATTACHED EXHIBIT C).

7) No previous application has been made for the relief requested herein.

WHEREFORE, the petitioner requests that a judgment under article 78 be granted, directing:

- 1) THAT THE RESPONDENTS PROVIDE TO ME THE INFORMATION, THAT I HAVE REQUESTED PURSUANT TO FOIL.

2) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AND for any other relief that this court deems just and proper.

DATED: APRIL 9, 2007

Sign: John Covington

(Print Name and Address)

JOHN COVINGTON #98A7353

AUBURN CORRECTIONAL FACILITY

P.O. BOX 618

AUBURN, NY 13024

Sworn to Before Me This 9  
Day of April, 2007

Robert W. Burdick

Notary Public

Robert W. Burdick  
Notary Public, State of New York  
01BU6090720  
Qualified in Cayuga County  
Commission Expires 04/21/2007

P-3

STATE OF NEW YORK  
SUPREME COURT -- COUNTY OF NEW YORK

In the Matter of the Application of:  
JOHN COVINGTON # 98A7353

Petitioner,

For a Judgment Pursuant Article 78,  
of the Civil Practice Law and Rules,

VERIFICATION

INDEX NO. \_\_\_\_\_

- against -

SERGEANT JOHN C. SULTANA, SERGEANT  
JAMES RUSSO, INVESTIGATOR HIPPOLYTE

Respondent.

JOHN COVINGTON, being duly sworn deposes and say that:

I am the affiant in the instant proceeding, and have read the foregoing petition for an Order to Show Cause, and all papers submitted by me, and in my behalf, and know the contents therein; "that the same is true and accurate to the best of my knowledge and belief, except as to those matters stated upon information and belief, and as to those matters, I believe to be true, based upon what is presently know and understood by me, as true and accurate.

Dated: APRIL, 9, 2007

Respectfully,

John Covington  
JOHN COVINGTON  
#98A7353  
Auburn Correctional Facility  
P.O. Box 618  
Auburn, N.Y. 13024

Subscribe to before me this

9 day of April, 2007

Robert W. Burdick  
NOTARY PUBLIC

Robert W. Burdick  
Notary Public, State of New York  
01BU6090720  
Qualified in Cayuga County  
Commission Expires 04/21/2007

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

JOHN COVINGTON

DIN # 98A7353

Petitioner,

For a Judgment pursuant to Article 78 of the Civil  
Practice Law and Rules

Verified Petition

RJI No.

Index No.

-against-  
SERGEANT JOHN C. SULTANA, SERGEANT JAMES  
RUSSO, INVESTIGATOR HIPPOLYTE

Respondent(s).

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petition of JOHN COVINGTON #98A7353 respectfully alleges that:

- 1) This is a special proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules (CPLR).
- 2) The above named petitioner is an inmate in the custody and care of the New York State Department of Correctional Services and presently incarcerated at: AUBURN
- 3) Upon information and belief, the respondent is SGT. JOHN C. SULTANA, ET.AL., And has the authority to review decisions of his/her subordinates.
- 4) The petitioner challenges THE RESPONDENTS FOR FAILING TO PROVIDE ME WITH THE INFORMATION, THAT I HAVE REQUESTED PURSUANT TO FOIL.
- 5) The facts supporting Petitioner's claim are as follows: SEE ATTACHED SHEET P-1a.

P-1

ON AUGUST 29, 2006 I SENT A FOIL REQUEST DATED AUGUST 27, 2006 TO ONE POLICE PLAZA TO OBTAIN THE ACTUAL MEMO BOOKS AND NOTES OF TWO CRIMES WHICH ALLEGEDLY TOOK PLACE ON JANUARY 17, AND JANUARY 27, 1998 (SEE ATTACHED EXHIBIT A).

SUBSEQUENTLY ON NOVEMBER 1, 2006 I WAS NOTIFIED BY SERGEANT JAMES RUSSO OF ONE POLICE PLAZA, THAT MY FOIL REQUEST WAS RECEIVED, AND THAT A DETERMINATION TO MY REQUEST WOULD BE REACHED BY JANUARY 20, 2007 BY INVESTIGATOR HIPPOLYTE (SEE ATTACHED EXHIBIT B).

THUS PURSUANT TO THE ABOVE COMMUNICATION, I SENT A FOLLOW-UP LETTER ONCE TO ONE POLICE PLAZA, AND TWICE TO INVESTIGATOR HIPPOLYTE. NOTIFYING HIM, THAT I INTEND TO FILE AN ART. 78 PETITION IN THE EVENT THAT MY FOIL REQUEST WAS NOT RESPONDED TO. I ALSO PROVIDED INVESTIGATOR HIPPOLYTE ADDITIONAL INFORMATION TO HELP TOWARDS LOCATING THE INFORMATION THAT I REQUESTED (SEE ATTACHED EXHIBIT C).

2. THAT THE RESPONDENT FAILURE TO RESPOND TO MY REQUEST IN A SUFFICIENT PERIOD OF TIME IS DEEMED A CONSTRUCTIVE DENIAL OF MY REQUEST. THUS BEINGS THAT IT HAS BEEN OVER 120 DAYS SINCE I MADE MY REQUEST, AND THE RESPONDENTS HAVE NOT RESPONDED. MY ADMINISTRATIVE APPEAL REMEDIES ARE DEEMED EXHAUSTED, SEE MATTER OF KEVIN KENNEDY V. NEW YORK CITY POLICE DEPARTMENT, SUPREME COURT, NEW YORK COUNTY, JUSTICE DEGRASSE - QDS: 22266470 (NY LAW JOURNAL, NOVEMBER 2, 2000, PAGE 26).

3. THAT PURSUANT TO GOULD V. NEW YORK CITY POLICE DEPARTMENT, 89 N.Y.2d 267, 653 N.Y.S.2d 54 (1996) PETITIONER IS ENTITLED TO THE RECORDS SO SOUGHT.

P-1a



6) Petitioner exhausted his administrative remedies by: NOTIFYING ONE POLICE PLAZA ON OCTOBER 5, 2006 TO WHOM I MAY APPEAL TO REGARDING THE DENIAL OF MY REQUEST (SEE ATTACHED EXHIBIT C).

7) No previous application has been made for the relief requested herein.

WHEREFORE, the petitioner requests that a judgment under article 78 be granted, directing:

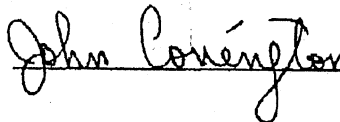
- 1) THAT THE RESPONDENTS PROVIDE TO ME THE INFORMATION, THAT I HAVE REQUESTED PURSUANT TO FOIL.

2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AND for any other relief that this court deems just and proper.

DATED APRIL 9, 2007

Sign: \_\_\_\_\_



(Print Name and Address)

JOHN COVINGTON #98A7353AUBURN CORRECTIONAL FACILITYP.O. BOX 618AUBURN, NY 13024

Sworn to Before Me This 9  
Day of April, 2007



Notary Public

Robert W. Burdick  
Notary Public, State of New York  
01BU6090720  
Qualified in Cayuga County  
Commission Expires 04/21/2007

P-3

STATE OF NEW YORK  
SUPREME COURT -- COUNTY OF NEW YORK

-----X  
In the Matter of the Application of:  
JOHN COVINGTON # 98A7353

Petitioner,

For a Judgment Pursuant Article 78,  
of the Civil Practice Law and Rules,

VERIFICATION

- against -

SERGEANT JOHN C. SULTANA, SERGEANT  
JAMES RUSSO, INVESTIGATOR HIPPOLYTE  
-----,

INDEX NO. \_\_\_\_\_

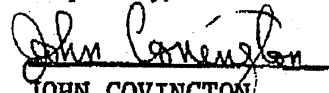
Respondent.  
-----X

JOHN COVINGTON, being duly sworn deposes and say that:

I am the affiant in the instant proceeding, and have read the foregoing petition for an Order to Show Cause, and all papers submitted by me, and in my behalf, and know the contents therein; "that the same is true and accurate to the best of my knowledge and belief, except as to those matters stated upon information and belief, and as to those matters, I believe to be true, based upon what is presently know and understood by me, as true and accurate.

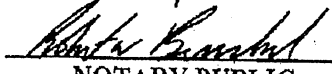
Dated: APRIL, 9, 2007

Respectfully,

  
JOHN COVINGTON  
#98A7353  
Auburn Correctional Facility  
P.O. Box 618  
Auburn, N.Y. 13024

Subscribe to before me this

9 day of April, 2007

  
NOTARY PUBLIC

Robert W. Burdick  
Notary Public, State of New York  
01BU6090720  
Qualified in Cayuga County  
Commission Expires 04/21/2007

CCOAMIN  
INDEX NO: 402872 2007  
PURCHASE: 05092007

SUPREME COURT - STATE OF NEW YORK  
NEW YORK COUNTY CLERK  
CIVIL INDEX MINUTE BOOK INQUIRY

DATE: 11/28/2007  
TIME: 10:41:29

PLAINTIFF NAME: TAYLOR BILLY  
ATTORNEY: UNKNOWN

DEFENDANT NAME: RUSSO JAMES  
ATTORNEY: UNKNOWN

SEQ DATE  
0001 05092007

MINUTES  
PETITION  
POOR PERSON'S ORDER

PAGE - 1

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF MANHATTAN

In the Matter Of Application of  
BILLY TAYLOR,

Petitioner,

For A Judgment Pursuant To Article 78  
Of The Civil Practice Law And Rules

- AGAINST -

JAMES RUSSO, Sergeant OF NEW YORK CITY  
POLICE DEPARTMENT ----- FREEDOM OF  
INFORMATION LAW - RECORDS ACCESS UNIT,

Respondent.

PETITION.

INDEX NO. \_\_\_\_\_

PRO SE

**FILED**

MAY 09 2007

NEW YORK  
COUNTY CLERK

07402872

TO: THE SUPREME COURT OF THE STATE OF NEW YORK FOR  
MANHATTAN COUNTY:

The Petition of Billy Taylor, complaining of the Respondent James Russo, respectfully alleges:

1). This is a special proceeding brought pursuant to Article 78 Of The Civil Practice Laws And Rules (CPLR).

2). That the petitioner is presently an inmate at Pleasantville Correctional Facility located at P.O. Box 1245, Beacon, N.Y. 12508, and in the care and custody of the New York State department of Corrections, serving an indeterminate prison sentence imposed by a Court of New York State.

3). Respondent, James Russo, is the FOIL's access Officer for the New York City Police Department located at One Police Plaza, New York, N.Y. 10018. He is charged with the duty to make the records accessible to the Public/Petitioner as long as they do not fall within the enumerated exceptions of the Public Officers Law Sec. 87(2).

4). The Petitioner challenges the denial of his FOIL's request of May 5, 2006, that was denied on January 22, 2007. Respondent James Russo, after reviewing the FOIL's request sent Petitioner a letter on December 4, 2006, stating: "that the item(s) requested are too broad in nature and do not reasonably describe documents to enable a search for such records." Respondent James Russo, explained that he needed type, voucher, name of chemist etc.. (See Exhibit 1).

5). The petitioner thereafter sent Respondent James Russo a letter on December 11, 2006, listing the specific information to enable Sergeant Russo, to wit: "A copy of the chemist - laboratory report (drug analyze) test done on the heroin to measure its purity and weight in my case." (See Exhibit 2). This surely was enough information to allow a search and locate the document requested.

6). Respondent after receiving the letter of Dec. 11, 2006, denied Petitioner's request January 22, 2007, stating that: "Requested item(s) are too broad in nature and do not reasonably describe any documents to search for such record. (See Exhibit 3).

7). Thereafter, Petitioner filed a timely administrative appeal with the Records Access Appeals Officer Jonathan David, on February

8, 2007. On March 21, 2007, the appeal was denied upon the following grounds: "The appeal is denied because the records Access Officer correctly determined that your request was too broad in that it did not provide sufficient description of the requested record. Thus, the request did not reasonably describe a record as required by Public Officers Law Sec. 89(3)." (See Exhibit 4).

8). Respondent's determination is arbitrary, capricious and an abuse of discretion because the request by Petitioner on May 3, 2005, December 11, 2006, and February 8, 2007, all support the fact that Petitioner did in fact describe a document that would allow Respondent, Sergeant James Russo to search and locate the material requested. Thereby making the decision irrational and bordering on impropriety See (Administrative appeal prior Exhibit "3"), for legal argument.

9). No previous application has been made for the requested relief.

WHEREFORE, your petitioner respectfully requests that judgment be entered pursuant to Article 78 of the Civil Practice Law and Rules:

1). VACATING and setting aside Respondent's determination of January 12, 2007 and appeal affirmance of March 21, 2007, denying Petitioner access to his Police records under P.O.L. 8;

2). DIRECTING Respondent to search their files for the document/record requested by Petitioner and thereafter if located to make the document available to Petitioner as long as it does not fall with one of the enumerated exemptions of Public Officers Law

Sec. 87(2) as required by law; and

3). GRANTING such other and further relief as this Court may deem just and proper.

Respectfully submitted

*S. Taylor*

Billy Taylor ----- 83-A-4633  
Fishkill Correctional Facility  
Box 1245 -- 271 Matteawan Road  
Beacon, New York 12508

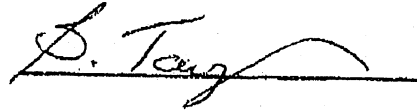
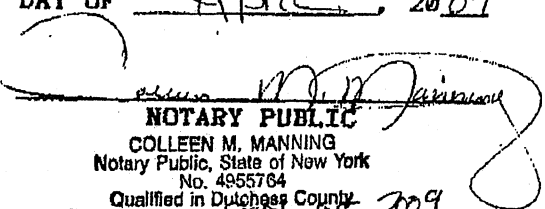


STATE OF NEW YORK )

) s.s.:

COUNTY OF DUTCHESS)

Billy Taylor being duly sworn, deposes and says that he is the Petitioner in the within proceeding and that he has read the foregoing Petition and knows the contents thereof; that the same is true to his own knowledge except as to matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

SWORN TO BEFORE ME THIS 21stDAY OF April, 2007

NOTARY PUBLIC  
COLLEEN M. MANNING  
Notary Public, State of New York  
No. 4955764  
Qualified in Dutchess County  
Term Expires Sept. 28, 2009

CCOAMINT  
INDEX NO: 111416 2002  
PURCHASE: 05302002

Case 1:07-cv-03489-WHP Document 28-5 Filed 04/03/2008  
SUPREME COURT - STATE OF NEW YORK  
NEW YORK COUNTY CLERK  
CIVIL INDEX MINUTE BOOK INQUIRY

DATE: 1/28/2007  
TIME: 10:39:16  
Page 18 of 23

PLAINTIFF NAME: DANIEL RICHARD  
ATTORNEY: HOWARD SHEVRIN, ESQ  
123-60 83RD AVENUE  
KEW GARDENS, N.Y.  
718-261-3075  
DEFENDANT NAME: INSTANT WHIP OF NEW  
ATTORNEY: UNKNOWN

SEQ	DATE	MINUTES
0001	05302002	SUMMONS AND COMPLAINT
0001	07102002	AFFIDAVIT SUMMONS AND VERIFIED COMPLAINT
0002	07102002	AFFIDAVIT OF SERVICE OF SUMMONS(2)
0001	07182002	NOTICE & AFFIDAVIT OF SERVICE
0001	09052002	AFFIDAVIT
0001	01292003	CASE SCHEDULING ORDER
0001	02052003	LETTER
0001	06172003	STIPULATION

PAGE - 1

Supreme Court of the State of New York  
County of New York

RICHARD DANIEL

Plaintiff,

-against-

INSTANT WHIP NEW YORK INC., and  
JAMES RUSSO,

Defendants.

02111416

Index No.

Date purchased:  
Plaintiff designates  
NEW YORK  
County as the place of trial.

The basis of the venue is  
Plaintiff's residence

**Summons**

Plaintiff resides at  
133 W. 90<sup>th</sup> Street, Apt. 19B  
New York, NY 10024  
County of NEW YORK

To the above named Defendants:


You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Kew Gardens, New York  
April 3, 2002

Defendant's Address:

Instant Whip: 32-26 62<sup>nd</sup> Street  
Woodside, NY 11377

James Russo: 515 Chestnut Street  
Lakewood, NJ 08701

  
HOWARD SHEVRIN, ESQ.  
Attorney for Plaintiff  
Office and Post Office Address  
123-60 83<sup>rd</sup> Avenue  
PO Box 310  
Kew Gardens, NY 11415  
(718) 261-3075

**FILED**  
MAY 3 10 2002  
NEW YORK  
COUNTY CLERK'S OFFICE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

02111416

-----X  
RICHARD DANIEL,

Plaintiff,

COMPLAINT

- against -

Index No.:

INSTANT WHIP NEW YORK INC., and  
JAMES RUSSO,

Defendants.  
-----X

Plaintiff, complaining of the defendants, by his attorney, HOWARD SHEVRIN, ESQ.,  
alleges:

*FIRST:* That at all times hereinafter mentioned, defendant, INSTANT WHIP  
NEW YORK INC., is a duly organized corporation.

*SECOND:* That at all times hereinafter mentioned, defendant, INSTANT WHIP  
NEW YORK INC., was the owner of a 1996 Ford motor vehicle bearing registration number  
M930SA for the year 2001.

*THIRD:* That at all time hereinafter mentioned, defendant, JAMES RUSSO,  
operated and controlled the aforesaid motor vehicle while the same was in the garage of the Beth  
Israel Medical Center located at East 17<sup>th</sup> Street and First Avenue, County of New York, City  
and State of New York, with the knowledge, permission and consent of the owner INSTANT  
WHIP NEW YORK INC.

*FOURTH:* That plaintiff, RICHARD DANIEL, operated and controlled a 1997 Ford  
motor vehicle at said location.

*FIFTH:* That on or about the 30<sup>th</sup> day of October, 2001 at or about the aforementioned location, the vehicle owned by INSTANT WHIP NEW YORK INC., and operated and controlled by defendant, JAMES RUSSO, went out of control and struck the vehicle plaintiff, RICHARD DANIEL, was operating, causing the plaintiff, RICHARD DANIEL, to be injured.

*SIXTH:* That said personal injuries and damages sustained by the plaintiff, RICHARD DANIEL, were caused through the careless, reckless and negligent manner in which the defendants herein operated and controlled said motor vehicle; in operating and controlling said vehicle at an excessive rate of speed; in failing to keep a safe and proper distance from the vehicle in front; in driving with a complete disregard of the existing conditions; in failing to operate a motor vehicle within the designated lanes; in failing to have said vehicle under proper and reasonable control; in driving a motor vehicle with defective brakes; in driving a motor vehicle that was in a defective and negligent condition; in failing to give warning of its approach; in failing to keep a proper lookout ahead; in maintaining and operating said vehicle in a careless, reckless and dangerous fashion; in failing to heed the traffic conditions then and there existing; and in allowing their vehicle to be operated in violation of the laws of the City and State of New York, then and now in full force and effect and, in such cases, made and provided.

*SEVENTH:* That as a result of the foregoing, plaintiff, RICHARD DANIEL, was caused to sustain personal injuries and suffer mental anguish and physical pain, as well as nervous shock and was rendered, sick, sore, lame and disabled, and was unable to attend to his usual duties and was obliged to and did seek medical aid in an endeavor to be cured of his said injuries and, upon information and belief, some of said injuries will be permanent in nature and duration.

*EIGHTH:* That no act or omission on the part of the plaintiff caused or contributed to the occurrence of said accident and the resultant injuries.

*NINTH:* That plaintiff sustained serious, permanent injuries with consequential damages, and the injuries prevented said plaintiff from performing substantially all of the material acts which constitute each person's usual, customary, daily activities and has met the statutory requirements of the New York City and State Insurance Law of December, 1977.

*TENTH:* That the plaintiff, RICHARD DANIEL, has sustained serious injury as defined in Section 671(4) and Section 5102(d) of the insurance law as a result of this accident.

*ELEVENTH:* That as a result of said accident, plaintiff, RICHARD DANIEL, sustained damages in the sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS.

*WHEREFORE,* plaintiff, RICHARD DANIEL, demands judgment against the defendants, and each of them herein, in the sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS, together with the costs and disbursements of this action.

Dated: Kew Gardens, New York  
April 3, 2002

Yours, etc.,



---

HOWARD SHEVRIN, ESQ.  
Attorney for Plaintiff  
Office & P.O. Address  
123-60 83 Avenue  
P.O. Box 310  
Kew Gardens, NY 11415  
(718) 261-3075

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

DANIEL, RICHARD

VS

INSTANT WHIP New York  
AND JAMES RUSSO

INDIVIDUAL ASSIGNMENT PART 22-DCM

STIPULATION

INDEX NO. 111416/2002

MOTION CALENDAR NO.

DATE 6/9/03

IT IS HEREBY STIPULATED AND AGREED by and between the below-named attorney(s) as follows:

Since defendant Russo died, the attorney for the depts  
estate will provide the plaintiff with Letters of Testamentary  
if they ~~exist~~ <sup>exist</sup> by July 7, 2003.

In light of the foregoing the plaintiff reserves his  
right to depose Instant Whip and a representative of the  
estate.

Compliance conference to be held on July 14, 2003

Date:

6/9/03

So Ordered.

ENTER:

Milton A. Toriglio

J.S.C.

NEW YORK  
COUNTY CLERK

JUN 17 2003

Attorney for Plaintiff

Attorney for Defendant

Attorney for Defendant

SC-8G (rev 2/86)